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SUBJECT: THE TEN GUIDING PRINCIPLES ON NGOS: TUNISIA'S RECORD

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1B. TUNIS 52

11. (SBU) In response to the recently released "Ten Guiding Principles on NGOs" (ref A), Post offers below an annotated version, with examples of the GOT's track record on each principle. We suggest that USG officials draw from these examples when discussing human rights issues with GOT interlocutors.

12. (SBU) Begin Annotated List:

1st Principle: Individuals should be permitted to form, join and participate in NGOs of their choosing in the exercise of the rights to freedom of expression, peaceful assembly and association.

Freedom of association is strictly limited in Tunisia. The Ministry of Interior vets all applications for association status and has refused recognition for many politically sensitive NGOs such as the National Council for Liberties in Tunisia (CNLT), the International Association for the Support of Political Prisoners (AISPP), the Tunisian Journalists, Syndicate (SJT) and the Tunisian Association Against Torture (ALTT), whose only common denominator is criticism of GOT practice and policy.

2nd Principle: Any restrictions which may be placed on the exercise by members of NGOs of the rights to freedom of expression, peaceful assembly and association must be consistent with international legal obligations.

Tunisia is a party to both the International Convention on Civil and Political Rights and the Universal Declaration of Human Rights which provide (Article 22 and 20 respectively) that freedom of association includes the right to form and join trade unions, and prohibits restrictions on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public orders, the protection of public health or morals, or the protection of the rights and freedoms of others.

The GOT's frequent restrictions on freedom of association of non-violent groups contradict these provisions. While the GOT often cites security concerns as a justification to restrict the activities and funding of NGOs such as CNLT, the

Tunisian Association of Democratic Women (ATFD), and others, there is no evidence that these organizations present a security threat. Rather they promote non-violent political opposition and discourse.

3rd Principle: NGOs should be permitted to carry out their peaceful work in a hospitable environment free from fear of harassment, reprisal, intimidation and discrimination.

There are almost daily reports of GOT harassment, reprisal, intimidation, defamation and discrimination of NGO leaders and employees, including Sihem Ben Sedrine (CNLT), Neziha Rejiba (CNLT), Mohamed Nouri (AISPP), Lotfi Hajji (SJT), Mohktar Yahiaoui (Center for Independent Judiciary), journalist Slim Boukdhir and many others. (See www.tunisnews.net for daily reports from various international and Tunisian human rights organizations.)

4th Principle: Acknowledging governments' authority to regulate entities within their territory to promote the public welfare, such laws and administrative measures should protect--not impede--the peaceful operation of NGOs and be enforced in an apolitical, fair, transparent and consistent manner.

Laws governing the legality of associations, which provide for the refusal to grant association status on security grounds, are not enforced in a transparent or consistent fashion, leading many to conclude that decisions are based on political calculations. For example, CNLT has received no explanation why the GOT will not accept its application for association status despite its primary goal of monitoring and reporting human rights violations.

5th Principle: Criminal and civil legal actions brought by governments against NGOs, like those brought against all individuals and organizations, should be based on tenets of due process and equality before the law.

The legal cases against the Tunisian Human Rights League (LTDH) raise questions about the application of due process. A 2001 ruling forced the LTDH to hold a congress to elect new leadership (the current leadership is viewed as too independent and anti-GOT). However, a 2005 ruling forbade the LTDH to hold its congress. While the GOT maintains that the current case against the LTDH, which has led to a complete stoppage of all activities of the NGO, is an "internal matter", domestic and international NGOs allege that the GOT is heavily involved in trying to remove, or limit the independence of the current leadership of the LTDH and other independent NGOs. Judgments against the LTDH have been contradictory, arbitrary and, according to defense lawyers, without due process.

6th Principle: NGOs should be permitted to seek, receive, manage and administer for their peaceful activities financial support from domestic, foreign and international entities.

The GOT controls and often prevents most foreign funding to NGOs, including legal NGOs. Clear examples of this include blocked funding to LTDH, Tunisian ATFD, Association of Tunisian Women for Research and Development (AFTURD), as well as all unauthorized NGOs.

7th Principle: NGOs should be free to seek, receive and impart information and ideas, including advocating their

opinions to governments and the public within and outside the countries in which they are based.

Unauthorized NGOs such as CNLT, AISPP, etc., cannot disseminate information within the country, and their websites are blocked in Tunisia. Major newspapers will not carry press releases from sensitive NGOs. CNLT has tried for years to obtain permission to publish the print version of its journal "Kalima" to no avail.

8th Principle: Governments should not interfere with NGOs' access to domestic and foreign-based media.

NGOs, like all Tunisians, are subject to Tunisia's strictly controlled media environment, including blocked websites containing human rights and opposition political information and import restrictions on certain international magazines and newspapers. Credible reports of security officials at the airport confiscating books from NGO officials are common (e.g. Neziha Rejiba "Om Zied", editor of Kalima, Khemais Chemmari, 18 October Movement).

9th Principle: NGOs should be free to maintain contact and cooperate with their own members and other elements of civil society within and outside the countries in which they are based, as well as with governments and international bodies.

Freedom of association is severely restricted for members of certain NGOs, to the extent that members have not been allowed to conduct internal meetings (e.g. LTDH, 18 October Movement, etc.) or hold events for outside audiences. The GOT has largely refused to meet with unauthorized NGOs, and has very limited contact with critical legal NGOs such as ATFD and LTDH. The GOT often disrupts meetings of Tunisian NGOs and international NGOs both within Tunisia (International Conference on Employment and the Right to Work in the Euro-Mediterranean Region, Amnesty International) and abroad (WSIS Prepcos in Geneva).

10th Principle: Whenever the aforementioned NGO principles are violated, it is imperative that democratic nations act in their defense.

See the U.S. Supporting Human Rights and Democracy Report -- Tunisia Chapter for examples of U.S. efforts to defend independent NGOs in Tunisia. Other democratic nations, with some exceptions, have not consistently advocated human rights issues in Tunisia.

NOTE: As used here, the term NGOs includes independent public policy advocacy organizations, non-profit organizations that defend human rights and promote democracy, humanitarian organizations, private foundations and funds, charitable trusts, societies, associations and non-profit corporations. It does not include political parties. END NOTE.

¶3. (SBU) Comment: As is clear from the above, the GOT's treatment of NGOs is inconsistent with the ten guiding principles. Post will continue to use these principles as guidelines in approaching the GOT to increase freedom of association. End Comment.

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